

1 Kathleen R. Hartnett (SBN 314267)
2 BOIES SCHILLER FLEXNER LLP
3 1999 Harrison Street, Suite 900
4 Oakland, CA 94612
Telephone: (510) 874-1000
Facsimile: (510) 874-1460
Email: khartnett@bsfllp.com

Harold Hongju Koh (*pro hac vice forthcoming*)
RULE OF LAW CLINIC
Yale Law School
127 Wall Street, P.O. Box 208215
New Haven, CT 06520
Telephone: (203) 432-4932
Email: harold.koh@ylsclinics.org

5
6 Phil Spector (*pro hac vice forthcoming*)
MESSING & SPECTOR LLP
7 1200 Steuart Street, #2112
Baltimore, MD 21230
8 Telephone: (212) 277-8173
Email: ps@messingspector.com

9
10 *Attorneys for Amici Curiae Former U.S. Government Officials*

11
12 UNITED STATES DISTRICT COURT
13 NORTHERN DISTRICT OF CALIFORNIA
14 OAKLAND DIVISION

15 SIERRA CLUB and SOUTHERN BORDER
16 COMMUNITIES COALITION,

17 Plaintiffs,

18 vs.

19 DONALD J. TRUMP, President of the
United States, in his official capacity, et al.,

20 Defendants.

21 Case No. 4:19-cv-00892-HSG

22
23
24
25
26
27
28
**CONSENT MOTION OF FORMER
U.S. GOVERNMENT OFFICIALS FOR
LEAVE TO FILE MEMORANDUM AS
AMICI CURIAE IN SUPPORT OF
PLAINTIFFS' MOTION FOR A
PRELIMINARY INJUNCTION**

Judge: Hon. Haywood S. Gilliam, Jr.
P.I. Hearing Date: May 17, 2019
Time: 10:00 a.m.
Courtroom: 2, 4th Floor

1 **TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:**

2 Former U.S. Government Officials respectfully move for leave to file the attached brief as
3 *amici curiae* in the above-captioned matter, in support of Plaintiffs' Motion for a Preliminary
4 Injunction. *Amici* are listed in the Appendix to the attached brief. Counsel for Plaintiffs and
5 Defendants have consented to *Amici*'s proposed filing.

6 **STATEMENT OF INTEREST AND ARGUMENT**

7 *Amici curiae* are sixty-two former officials in the U.S. government who have worked on
8 national security and homeland security issues from the White House as well as agencies across
9 the Executive Branch. They have served in senior leadership roles in administrations of both
10 major political parties, and collectively they have devoted a great many decades to protecting the
11 security interests of the United States. They have held the highest security clearances, and
12 participated in the highest levels of policy deliberations on a broad range of issues. These include:
13 immigration, border security, counterterrorism, military operations, and our nation's relationship
14 with other countries, including those south of the U.S. border.

15 *Amici* respectfully submit this brief because, in their professional opinion, there is no
16 factual basis for the declaration of a national emergency for the purpose of circumventing the
17 appropriations process and reprogramming billions of dollars in funding to construct a wall at the
18 southern border, as directed by the Presidential Proclamation of February 15, 2019. *Amici* submit
19 that their brief will be helpful to the Court, given *Amici*'s unique and directly relevant perspective
20 of having lived and worked through national emergencies across Presidential administrations over
21 a period of decades. The points in this brief are an updated version of those in a declaration that
22 most of the *amici* joined and that was submitted into the Congressional Record on February 25,
23 2019.

24 **CONCLUSION**

25 For the foregoing reasons, the Consent Motion should be granted, and *Amici*'s attached
26 memorandum should be filed with the Court.

27

28

1 Dated: May 2, 2019

Respectfully Submitted,

2

3

4

5

6

7

By: /s/ Kathleen R. Hartnett

Kathleen R. Hartnett (SBN 314267)
BOIES SCHILLER FLEXNER LLP
1999 Harrison Street, Suite 900
Oakland, CA 94612
Telephone: (510) 874-1000
Facsimile: (510) 874-1460
Email: khartnett@bsfllp.com

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

Harold Hongju Koh (*pro hac vice forthcoming*)
RULE OF LAW CLINIC
Yale Law School
127 Wall Street, P.O. Box 208215
New Haven, CT 06520
Telephone: (203) 432-4932
Email: harold.koh@ylsclinics.org

Phil Spector (*pro hac vice forthcoming*)
MESSING & SPECTOR LLP
1200 Steuart Street, #2112
Baltimore, MD 21230
Telephone: (212) 277-8173
Email: ps@messingspector.com

*Attorneys for Amici Curiae Former U.S.
Government Officials*